

JS 44 (Rev. 12/12)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<b>I. (a) PLAINTIFFS</b> Katherine Mellot, Individually, and on behalf of a class of persons similarly situated  <b>(b) County of Residence of First Listed Plaintiff</b> <u>Franklin County</u> (EXCEPT IN U.S. PLAINTIFF CASES)  <b>(c) Attorneys (Firm Name, Address, and Telephone Number)</b> Sheller, P.C. 1528 Walnut Street, 4th Floor Philadelphia, PA 19102	<b>DEFENDANTS</b> PPL Corporation  County of Residence of First Listed Defendant <u>Lehigh County</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.  Attorneys (If Known)
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<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant) <table style="width: 100%;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT (Place an "X" in One Box Only)	
<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 464 Employment to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement
<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act  <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
<b>OTHER STATUTES</b> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes	

<b>V. ORIGIN</b> (Place an "X" in One Box Only)					
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation

<b>VI. CAUSE OF ACTION</b>	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>Telephone Consumer Protection Act of 1991, 47 U.S.C. Section 227</u> Brief description of cause: <u>Unsolicited telephone calls to individuals on do-not-call list</u>
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<b>VII. REQUESTED IN COMPLAINT:</b>	<input checked="" type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	<b>DEMAND \$</b>	CHECK YES only if demanded in complaint: <b>JURY DEMAND:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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<b>VIII. RELATED CASE(S) IF ANY</b> (See instructions):		JUDGE	DOCKET NUMBER
DATE <u>3-21-2013</u>		SIGNATURE OF ATTORNEY OF RECORD 	

FOR OFFICE USE ONLY

RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____	MAG. JUDGE _____
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**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

\_\_\_\_\_  
KATHERINE MELLOTT, Individually, and on  
behalf of a class of persons similarly situated,

Plaintiff,

v.

PPL CORPORATION,

Defendant.

**Civil Action**

**No.** \_\_\_\_\_

**CLASS ACTION**

**JURY TRIAL DEMANDED**

**CLASS ACTION COMPLAINT FOR INJUNCTION AND DAMAGES**

Plaintiff, Katherine Mellott (hereinafter “Plaintiff” or “Mellott”), by and through her undersigned counsel, brings this class action complaint against Defendant, PPL Corporation (hereinafter “PPL” or “Defendant”), to stop Defendant’s practice of making unsolicited telephone calls to individuals that are registered on a “do-not-call” list and to obtain redress for all persons injured by their conduct. Plaintiff, for her class action complaint, alleges as follows upon personal knowledge as to herself and her own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by her counsel:

**I. PRELIMINARY STATEMENT**

1. In a recent effort to promote the sale of its electricity and electricity services, PPL engage in a practice of placing unauthorized telemarketing calls to the telephones of potential customers throughout the nation.

2. In doing so, PPL failed to create or enforce procedures to verify whether it was violating the Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, § 2(5) (1991) (codified at 47 U.S.C. § 227) (hereinafter “TCPA”), by placing two or more unsolicited

telephone calls to individuals on a do-not-call list within a twelve month period, and thereby placed multiple unsolicited telephone calls to individuals that were on such lists.

3. By making these unauthorized telephone calls to individuals on do-not-call lists, Defendant has caused consumers actual harm, not only because consumers were subjected to an invasion of their privacy, but also by subjecting consumers to prohibited abusive or deceptive telemarketing acts and practices.

4. In order to redress these injuries, Plaintiff, on behalf of herself and a nationwide class of similarly situated individuals, brings suit under the TCPA, which prohibits, among other things, unsolicited telephone calls to telephone subscribers registered on a do-not-call list.

5. On behalf of the class, Plaintiff seeks an injunction requiring Defendants to cease initiating telephone solicitations to telephone subscribers registered on a do-not-call list and an award of statutory damages to the class members, together with costs and reasonable attorneys' fees.

## **II. PARTIES**

6. Plaintiff, Mellott is an adult individual who resides at 2382 Apple Way St., Thomas, Pennsylvania 17252, Franklin County, Pennsylvania. At all times mentioned herein, Plaintiff was an individual citizen and resident of the State of Pennsylvania.

7. Defendant, PPL is a Pennsylvania Corporation with its principal place of business in Allentown, Pennsylvania with an office address located at 2 N. 9<sup>th</sup> Street, Allentown, Pennsylvania, and regularly and consistently conducts business within the Commonwealth of Pennsylvania and the Eastern District of Pennsylvania.

8. At all relevant times herein, Defendant was a "person" as defined by 47 U.S.C. § 153(32).

### **III. JURISIDCTION AND VENUE**

9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d), because (a) at least one member of the putative class is a citizen of a state different from Defendants, (b) the amount in controversy exceeds \$5,000,000, exclusive of interest and costs, and (c) none of the exceptions under that subsection apply to this action.

10. This Court has personal jurisdiction over PPL as it is authorized to conduct business, and conducts business, as a Pennsylvania corporation. Further, PPL lists its principal place of business as located in Allentown, Pennsylvania.

11. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) because Defendants reside, transact business, are found, or have agents in this District. Further, a substantial part of the events or occurrences giving rise to the claims alleged occurred in this District.

### **IV. FACTUAL ALLEGATIONS**

12. In 1991, Congress enacted the TCPA to regulate the explosive growth of the telemarketing industry. In doing so, Congress recognized that “[u]nrestricted telemarketing . . . can be an intrusive invasion of privacy[.]” Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, § 2(5), 105 Stat. 2394, 2394 (1991) (codified at 47 U.S.C. § 227).

13. The TCPA prohibits persons or entities from initiating calls for telemarketing purposes to residential telephone subscribers “unless such person or entity has instituted procedures for maintaining a list of persons who request not to receive telemarketing calls made by or on behalf of that person or entity.” 47 C.F.R. § 64.1200(d).

14. The TCPA provides any “person that has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations

prescribed under this subsection” with a private right of action to enjoin such violations and/or recover actual or statutory damages, whichever is greater, resulting from such violations.

47 U.S.C. § 227(c)(5).

15. According to findings by the Federal Communication Commission (“FCC”), the agency Congress vested with authority to issue regulations implementing the TCPA, cellular telephones are subject to the same protections as residential lines. *See, e.g., In re Rules & Regulations Implementing the Telephone Consumer Protection Act*, 18 FCC Rcd. 14014 (July 3, 2003).

16. The law contains a safe harbor provision that exempts from liability a person or entity making telephone solicitations (or on whose behalf telephone solicitations are made) who has obtained the subscriber’s prior express invitation or permission to make the call. 47 C.F.R. § 64.1200(c)(2)(ii). However, Plaintiff has never provided defendant with any form of consent, invitation, or permission to be contacted by PPL, and Plaintiff has never had any business relationship with PPL.

17. Further, the Pennsylvania Telemarketer Registration Act, 73 P.S. §§ 2241-2249, prohibits persons or entities from “initiat[ing] or caus[ing] to be initiated a telephone solicitation call to a residential telephone number of a residential telephone subscriber who does not wish to receive telephone solicitation calls and has caused [her] name, address and telephone number to be enrolled on a do-not-call list maintained the list administrator.” 73 P.S. § 2245.2(a).

18. “A violation of the Pennsylvania Telemarketer Registration Act is also a violation of December 17, 1968 (P.L. 1224, No. 387), known as the Unfair Trade Practices and Consumer Protection Law.” 73 P.S. § 2246(a).

19. On February 6, 2013 at 12:14 p.m. ET, Plaintiff received a telephone call to her residential telephone line from a person indicating to be a representative of PPL Corporation.

20. The purpose of the call was for the PPL representative to persuade persons to buy their kilowatt electric rather than kilowatt electric from West Penn Power a/k/a FirstEnergy Corp. Plaintiff indicated that she was on the Pennsylvania Do-Not-Call List and that she did not wish to receive telephone calls from PPL Corporation.

21. Later that same day at 12:58 p.m. ET, Plaintiff received a second telephone call to her residential telephone line from a different person indicating to be a representative of PPL Corporation, but for the same purpose of soliciting individuals to purchase kilowatt electric from PPL rather than FirstEnergy Corp.

22. Infuriated, Plaintiff demanded to know why PPL continued to contact her when she was listed on the Pennsylvania Do-Not-Call List.

23. The PPL representative stated that PPL does not care what "telephone list" Plaintiff is on as such lists do not pertain to their company and that PPL can attempt to sell whatever it wants to.

24. Plaintiff alleges that PPL has engaged in a pattern of placing similar calls to persons or entities in an effort to solicit the sale of kilowatt electric without instituted procedures for maintaining a list of persons who request not to receive such telemarketing calls.

25. Plaintiff and the class have been damaged by Defendant's calls. Their privacy was improperly invaded, they were annoyed, and Class members with cellular phones were charged for the calls.

**V. CLASS ACTION ALLEGATIONS**

26. Plaintiff incorporates the allegations contained in the preceding paragraphs as if the same were set forth herein.

27. Plaintiff brings this class action pursuant to Rule 23(b)(2) and (3) of the Federal Rules of Civil Procedure on behalf of the following classes:

Nationwide Class

All persons who, within the applicable statutes of limitations, received more than one telephone within any 12-month period during a time when the Defendant did not institute procedures meeting the required minimum standards of 47 U.S.C. § 64.1200(d)(1)-(7) for maintaining a list of persons who request not to receive telemarketing calls made by or on behalf of Defendant.

Pennsylvania Class

All persons who, within the applicable statutes of limitations, received a telephone solicitation call from Defendant to a residential telephone number who did not wish to receive such telephone solicitation calls and who had caused his or her name, address and telephone number to be enrolled on a do-not-call list maintained by the designated "list administrator" pursuant to 73 P.S. § 2245.2(a).

28. Except as specifically provided herein, the members of the Nationwide Class and the Pennsylvania Class may be collectively referred to as "the Class."

29. The above-cited class definitions excludes the Defendant, its legal representatives, assigns, successors, employees, and any entity in which a Defendant has a controlling interest. Also excluded from the class definitions is the Judge to whom this case is assigned as well as the Judge's immediate family. Plaintiff reserves the right to amend the above-stated class definitions based upon facts learned in discovery.

30. Plaintiff alleges on information and belief, that the class is so numerous that joinder of all members of the class is impractical. Plaintiff also alleges on information and belief, that the proposed classes as defined herein each separately consist of thousands of individuals.

31. There are questions of law or fact common to the Class, which common issues predominate over any issues involving only individual class members. The common factual and/or legal issues common to each class member are as follows:

- a. Whether Defendant's conduct is governed by the TCPA;
- b. Whether Defendant's conduct is governed by the Pennsylvania Telemarketer Registration Act;
- c. Whether the unsolicited telephone calls made by Defendant violated the TCPA;
- d. Whether the unsolicited telephone calls made by Defendant violated the Pennsylvania Telemarketer Registration Act;
- e. Whether the unsolicited telephone calls made by Defendant violated Pennsylvania's Unfair Trade Practices and Consumer Protection Law;
- f. Whether the class members as defined herein are entitled to treble damages based upon the willfulness of Defendant's conduct; and
- g. Whether Defendant should be enjoined from engaging in such conduct in the future.

32. Plaintiff's claims are typical of those of the other class members. All claims are based on the same facts and legal theories.

33. Plaintiff will fairly and adequately protect the interests of the class. She has retained counsel experienced in handling actions involving unlawful practices under the TCPA and class actions. Plaintiff and her counsel have no interests which might cause them not to vigorously pursue this action.



34. Certification of a class under Rule 23(b)(2) of the Federal Rules of Civil Procedure is also appropriate in that Defendant has acted on grounds generally applicable to the Class, thereby making appropriate relief with respect to the Class as a whole.

35. Certification of the class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is also appropriate in that:

- a. The questions of law or fact common to the members of the class predominate over any questions affecting an individual member; and
- b. A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

36. Plaintiff requests certification of a hybrid class pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure for injunctive relief and pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure for monetary damages.

## **VI. CAUSES OF ACTION**

### **COUNT I**

#### **INJUNCTIVE RELIEF (On Behalf of the Nationwide Class)**

37. Plaintiff incorporates the allegations contained in the foregoing paragraphs as if the same were set forth herein.

38. The TCPA permits Plaintiff and the Nationwide Class to obtain injunctive relief.

39. Thus, Plaintiff and the Nationwide Class request that the Court enjoin PPL from further violating the TCPA by placing more than one call to any individual within 12-month without having instituted minimum standards pursuant to 47 C.F.R. § 64.1200(d)(1)-(7) for maintaining a list of persons who request not to receive telemarketing calls made by or on behalf of such person or entity.

40. For this reason, Plaintiff and the Nationwide Class are entitled to an Order prohibiting and enjoining Defendant, or its agents or independent contractors, from violating the TCPA as complained of herein.

## COUNT II

### **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT** **(On Behalf of the Nationwide Class)**

41. Plaintiff incorporates the allegations contained in the foregoing paragraphs as if the same were set forth herein.

42. Defendant violated the TCPA by placing more than one call to Plaintiff and each of the Nationwide Class members within 12-month without having instituted the required minimum standards pursuant to 47 C.F.R. § 64.1200(d)(1)-(7) for maintaining a list of persons who request not to receive telemarketing calls made by or on behalf of such person or entity.

43. Defendant did not have permission to make the unsolicited telephone calls complained of herein. Further, had Defendant instituted the required minimum standards pursuant to 47 C.F.R. § 64.1200(d)(1)-(7), Plaintiff and the Nationwide Class members would not have received the unsolicited telephone calls complained of herein.

44. As a result of Defendant's conduct, Plaintiff and the Nationwide Class are each entitled to, *inter alia*, a minimum of \$500.00 in damages for each violation of such act and injunctive relief to prevent further violations.

**COUNT III**

**KNOWING OR WILLFUL VIOLATIONS OF THE  
TELEPHONE CONSUMER PROTECTION ACT**  
**(On Behalf of the Nationwide Class)**

45. Plaintiff incorporates the allegations contained in the foregoing paragraphs as if the same were set forth herein.

46. Defendant's violations were committed willfully and/or knowingly inasmuch as Defendant indicated to Plaintiff that PPL "doesn't care what list [Plaintiff] was on" and that "such lists do not pertain to them." *See supra* ¶ 20; *see also* 47 U.S.C. § 312(f)(1).

47. Inasmuch as Defendant's actions were committed willfully and/or knowingly, the Court should treble the amount of statutory damages recoverable by the Plaintiff and the Nationwide Class, pursuant to 47 U.S.C. § 227(b)(3)(C).

**COUNT IV**

**VIOLATION OF THE  
UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW**  
**(On Behalf of the Pennsylvania Class)**

48. Plaintiff incorporates the allegations contained in the foregoing paragraphs as if the same were set forth herein.

49. By initiating or causing to be initiated telephone solicitation calls to residential telephone numbers of residential telephone subscribers on the Pennsylvania Do-Not-Call List, Defendant has violated the Pennsylvania Telemarketer Registration Act, 73 P.S. §§ 2241-2249. *See* 73 P.S. § 2245.2.

50. A violation of the Pennsylvania Telemarketer Registration Act is also a violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. §§ 201-1-201-9.3. *See* 73 P.S. § 2246.

51. As a result of Defendant's conduct, Plaintiff and the Pennsylvania Class have sustained damages in a sum which exceeds the jurisdictional limits of all lower courts which would have jurisdiction of this matter.

52. Further, and in addition to the damages above, Plaintiff seeks punitive and/or treble damages against Defendant in an amount to be determined upon the trial of this matter inasmuch as Defendant's conduct, as described above, was extreme, outrageous, oppressive, fraudulent, malicious, and/or the product of gross negligence.

53. In addition to the independent obligations placed upon Defendant to ensure that it was not initiating or causing to be initiated telephone solicitation calls to residential telephone subscribers on the Pennsylvania Do-Not-Call List, Plaintiff expressly notified Defendant that she was on the Pennsylvania Do-Not-Call List, to which Defendant's representative simply replied that "such lists do not pertain to their company and that PPL can attempt to sell whatever it wants to." *See supra*, ¶ 20.

54. At all relevant times herein, Defendant knew or should have known that Plaintiff was on the Pennsylvania Do-Not-Call List, and/or should have had procedures in place to ensure that no telephone solicitation calls were placed to residential telephone subscribers on the Pennsylvania Do-Not-Call List. Defendant either intentionally ignored such obligations or recklessly disregarded the same.

55. As a direct and proximate result of Defendant's conscious and deliberate disregard for the rights of consumers such as Plaintiff, Plaintiff and the Pennsylvania Class have been damaged as described above, and such damages should be trebled against Defendant in an amount to be determined upon the trial of this matter.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, Katherine Mellott, on behalf of herself and the Class, prays for the following relief:

- A. An Order certifying the Nationwide Class and the Pennsylvania Class as defined above;
- B. An award of actual and statutory damages;
- C. An award of punitive or exemplary damages;
- D. An injunction prohibiting Defendant, or its agents and/or independent contractors, from further violating the TCPA;
- E. An award of reasonable attorneys' fees and costs; and
- F. Such further and other relief as the Court deems reasonable and just.

**JURY DEMAND**

Plaintiff requests a trial by jury of all claims that can be so tried.

Dated: March 21, 2013

Respectfully submitted,

SHELLER, P.C.

/s/ Claudine Q. Homolash

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